

precursor cell or an osteogenic cell with an isolated nucleic acid of SEQ ID NO: 22; and

Group III: Claims 49-63, drawn to a method of inducing bone formation or to a method of stimulating production of an osteogenic soluble factor by transfecting an osteogenic precursor cell or an osteogenic cell with an isolated nucleic acid of SEQ ID NO: 33.

The Examiner has also required an election of a single disclosed species as set forth in either of Claims 58, 59, or 60.

In response to the restriction requirement, applicants hereby elect, with traverse, Group III, Claims 49-63, drawn to a method of inducing bone formation or to a method of stimulating production of an osteogenic soluble factor by transfecting an osteogenic precursor cell or an osteogenic cell with an isolated nucleic acid of SEQ ID NO: 33. In response to the election of species requirement, applicants hereby elect, with traverse, the species Claim 59 (i.e., wherein the LIM mineralization protein is HLMP-1s) for examination purposes. Applicants, however, respectfully traverse the restriction and election requirement in view of the following remarks.

In particular, Applicants submit that the examination of the inventions of at least Groups II and III would not pose an undue burden on the Examiner. According to §803 of The Manual of Patent Examining Procedure, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” It is respectfully submitted that a proper search of the Invention of Group III would include a search of art relevant to Group II. In particular, Group II is directed to transfecting an osteogenic precursor cell or an osteogenic cell with an isolated nucleic acid of SEQ ID NO: 22 whereas Group III is directed to transfecting an

osteogenic precursor cell or an osteogenic cell with an isolated nucleic acid of SEQ ID NO: 33. The LIM mineralization protein encoded by SEQ ID NO: 33 (i.e., the species of Claim 59), however, is a truncated form of the LIM mineralization protein encoded by SEQ ID NO: 22 (i.e., the species of Claim 58). Applicants therefore submit that it would not pose an undue burden on the Examiner to examine the inventions represented by Groups II and III in the same application.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited.

Respectfully submitted,

PIPER RUDNICK LLP


Steven B. Kelber
Registration No. 30,073
Attorney of Record

48,328

1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2412
Telephone No. (202) 861-3900
Facsimile No. (202) 223-2085

for

Christopher W. Raimund
Registration No. 47, 258